

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEX MEDINA,) No. C 11-0689 JSW (PR)
Plaintiff,)
v.) **ORDER OF TRANSFER**
M. MCDONALD, et al.,)
Defendants.)

) **(Docket No. 2)**

Plaintiff, a California prisoner incarcerated at High Desert State Prison (“HDSP”), has filed this pro se civil rights complaint under 42 U.S.C. § 1983.

When, as here, jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. § 1406(a). Venue may be raised by the court *sua sponte* where the defendant has not yet filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986).

Plaintiff's claims arise out of events occurring at HDSP in Susanville, California, where Plaintiff is incarcerated, and Defendants are located at HDSP. HDSP lies within

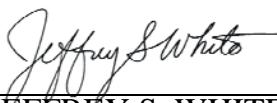
1 the venue of the United States District Court for the Eastern District of California.

2 Accordingly, IT IS ORDERED in the interest of justice, and pursuant to 28 U.S.C.
3 § 1406(a), that this action be TRANSFERRED to the United States District Court for the
4 Eastern District of California. In light of the transfer, the Court will not resolve
5 Plaintiff's request for leave to proceed *in forma pauperis*, and the Clerk shall terminate
6 docket number 2 from this Court's docket.

7 The Clerk of the Court shall transfer this matter forthwith.

8 IT IS SO ORDERED.

9 DATED:March 29, 2011


10 JEFFREY S. WHITE
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ALEX MEDINA,

Case Number: CV11-00689 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

M MCDONALD et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 29, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Alex Medina K-47243
H.D.S.P. Z/109
P.O. Box 3030
Susanville, CA 96127

Dated: March 29, 2011

Jennifer Ottolini

Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk